

EPA Signs Final Federal Plan for Arkansas.



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The United States Environmental Protection Agency, Region 6 (EPA), has notified the Arkansas Department of Environmental Quality (ADEQ) that the EPA Administrator has signed a final Federal Plan for Arkansas regarding regional haze and interstate visibility transport requirements.

In response, Governor Asa Hutchinson released the following statement:

“We in Arkansas best understand the measures we need to implement as a state to comply with the Regional Haze Rule. I believe this action represents unsupported federal overreach and goes beyond the authority provided by law. EPA’s mandate to impose billions of dollars in economic costs without clear health or environmental benefits is questionable at best and irrational at worst. It is arbitrary for EPA to force Arkansas ratepayers to pay millions, much less billions, of dollars for new technology that, by EPA’s own admission, will have no appreciable effect on regional haze and improved visibility. I am mindful of litigation in surrounding states regarding their haze plans and I have directed ADEQ to work with the Arkansas Attorney General to pursue all available legal remedies.”

EPA published its proposed Federal Plan for Arkansas on April 8, 2015, and solicited feedback from stakeholders. ADEQ, along with a number of Arkansas’s industries, institutions, and facilities impacted by the proposed Federal Plan, provided comments during this time. The final Federal Plan was signed August 31, 2016, by EPA according to a settlement deadline issued in a Sierra Club-initiated federal lawsuit.

Responding to this final Federal Plan, ADEQ Director Becky Keogh stated:

“This Federal Plan mandates controls that are both unnecessary and costly and does not take into account the real progress Arkansas has made in visibility improvements. While we

appreciate EPA's willingness to consider certain comments, we feel EPA's final Federal Plan does not adequately address many substantive issues that were raised during the comment period and closely resembles the proposed Federal Plan."

ADEQ's review indicates that the final Federal Plan contains significant flaws and does not accurately reflect the significant progress Arkansas has made to fulfill the requirements of the Clean Air Act pertaining to regional haze and visibility over the past several years. EPA's final Federal Plan requires state facilities to make significant investments installing pollution control equipment that in one instance ignores the remaining life of that unit and in another instance mandates controls despite better-than-required progress in visibility improvement.

Compared to the State Plan submitted by ADEQ in 2008 and disapproved by EPA in 2012, the measures that EPA is requiring will not be visible to the naked eye and exceed requirements to address the impairment of visibility. Notably, EPA's final Federal Plan mandates billion dollar controls on Entergy's White Bluff and Independence plants. The controls specified for installation at the White Bluff plant are being ordered despite a likely curtailed remaining useful life of that facility, due to current dispatch and market trends favoring natural gas plants. EPA is mandating controls at Entergy's Independence plant simply because it is a similar facility to White Bluff, even though it is not required by regulation. In fact, recent successful litigation in the Fifth Circuit has called into question EPA's present interpretation of the Regional Haze Rule as applied to the states of Texas and Oklahoma.

In her statement, Director Becky Keogh added:

"Despite Arkansas achieving better-than-required progress in visibility improvements, EPA has ignored the uniquely American cooperative-federalism model and instead has elected to issue this Federal Plan and converted this partnership into a coercive-federalism scheme where the states are now more pawn than partner."

Regional haze has declined thus improving visibility in Arkansas since 2004. In fact, the Natural State is advancing in reduction of haze and increased visibility more rapidly than required under the Regional Haze Rule.

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